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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 08/714,987 | 09/17/1996 | HUGH SHARKEY | 17616-705 | 4099 |
| 23715 | 7590 | 12/17/2003 | EXAMINER | |
| JOEL R. PETROW SMITH & NEPHEW, INC. 1450 BROOKS ROAD MEMPHIS, TN 38116 | | | SHAY, DAVID M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3739 | 58 |
| DATE MAILED: 12/17/2003 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
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| EXAMINER |
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DATE MAILED:

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR REPLY:

- a) ☐ will expire _____ months from the date of the final Office action (including extensions of time granted).
- b) ☒ expires either (1) three months from the mail date of the final Office action, or (2) on the mail date of this Advisory Action, whichever is later. In no event, however, will the statutory period for reply expire later than six months from the mail date of the final Office action.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- ☒ Applicant's reply to the final rejection, filed November 17, 2013 has been considered with the following effect, but it is not deemed to place the application in condition for allowance.

1. ☒ The proposed amendment to the claim and/or specifications will not be entered and the final rejection stands because:

- a) ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b) ☒ They raise new issues that would require further consideration and/or search. (See Note).
- c) ☒ They raise the issue of new matter. (See Note).
- d) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e) ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: imitations in surface material are new issue, possibly new matter

2. ☐ Newly proposed or amended claim _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claim allowed: none

Claims objected to: none

Claims rejected: _____

However;

- ☐ Applicant's reply has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because as can be seen from the term "secondary cerebrospinal fluid" it is clearly fluid in the general understanding of the art, applicant has provided no evidentiary showing of its absence. Therefore (CSF)

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not presented.

- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other an affidavit from applicant stating that no fluid exists in the cerebrospinal fluid would be needed to overcome the mere assertion that CSF is
Applicant may obtain further examination by filing a request for an application under 37 CFR 1.53(d) (CPA).

the rejections in the instant action previous action are verbatim the same as those of the action preceeding it. Any discussion of new grounds of rejection was erroneous and is withdrawn

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